

Sunset Public Hearing Questions for
State Board of Equalization
Created by Section 4-3-5101, *Tennessee Code Annotated*
(Sunset Termination June 2021)

Enabling Statute, Purpose, and Rules and Regulations

1. Provide a brief introduction to the board, including information about its purpose, statutory duties, staff, and administrative attachment.

The State Board of Equalization (“the Board”) is responsible for ensuring that assessments for local property taxes are performed in accordance with the Tennessee Constitution and statutory provisions, although it is not directly involved in the assessment of property.

The duties of the Board include the following: review, adoption and approval of assessment standards and revaluation programs. The Board provides advice and assistance to local officials and taxpayers and provides property tax education programs for local officials in partnership with the state Division of Property Assessments of the Office of the Comptroller. The Board is responsible for development of rules and procedures for the administration of the property tax relief program for low-income elderly and disabled and disabled veterans.

The Board is responsible for maintaining and reviewing reports for Payment In Lieu of Tax Agreements (PILOT); and Tax Increment Financing (TIF) reports. The Office of the Comptroller of Treasury is responsible for receiving annual reports regarding certain forms of property tax incentive programs and is charged with the review of others. The staff for the Board assists with these functions.

The staff for the Board consists of the following: executive secretary (statutory); three staff attorneys; two business analysts; one program coordinator; and three legal assistants. The staff also supports the six-member Assessment Appeals Commission, appointed annually by the Board to hear appeals from initial decisions of the administrative judges.

2. Has the board promulgated rules and regulations? If yes, please cite the reference(s). In particular, what rules has the board promulgated for implementing tax relieve programs for groups designated in Section 4-3-5103, *Tennessee Code Annotated*?

The Board has promulgated several rules regarding the conduct of its administrative hearings; the assessment and equalization of commercial and industrial property; agent registration; tax relief; and other subjects governed or regulated by the Board. The Secretary of State’s office has assigned the Board Chapter 0600 of the Tennessee Comprehensive Rules and Regulations. The Board has promulgated twelve titles including two additional titles in 2020. See <https://comptroller.tn.gov/boards/state-board-of-equalization/sboe-resources/rules-and-manuals/rules-of-the-sboe.html>

In 2020 the Board promulgated the following rules which will be new this year:
0600-13 – Certified and Equalized Tax Rates

0600-14 – Assessment of Commercial and Industrial Leasehold Interests

In 2020 the Board promulgated amendments to the following rules:

0600-01 – Contested Case Procedures

0600-05 – Assessment of Commercial and Industrial Tangible Personal Property

0600-08 – Property Tax Exemptions

The Board's rules regarding the tax relief program can be found in 0600-03. <https://publications.tnsosfiles.com/rules/0600/0600-03.20171003.pdf> Although the Board retains rulemaking authority regarding Tennessee's tax relief programs designated in Tenn. Code Ann. § 4-3-5103, the Division of Property Assessments within the office of the Comptroller of the Treasury administers the program. No items requiring amendment to the rules implementing tax relief programs have been raised to the Board since 2017.

Board Organization

- 3. Provide a list of current members of the board. For each member, please indicate who appointed the member, statutory member representation, the beginning and end of the member's term, and whether the member is serving a consecutive term.**

The Board consists of seven members - five members are statutorily appointed pursuant to Tenn. Code Ann. § 4-3-5101(a)(1-5) and include: the Governor; the Secretary of State; the State Treasurer; the State Comptroller; and the Commissioner of Revenue. Two persons are appointed by the Governor and must be knowledgeable and experienced in local assessments. The Governor is authorized to serve through a designee. Appointment of the non-ex officio members is handled through the Governor's office.

The current members are as follows:

Governor Bill Lee who, pursuant to Tenn. Code Ann. § 4-3-5101(a)(1), has appointed Lang Wiseman, Deputy to the Governor and Chief Counsel, to sit on the Board in his absence.

Tre Hargett, Secretary of State

David Lillard, Jr., State Treasurer

Justin Wilson, Comptroller of the Treasury

David Gerregano, Commissioner of Revenue

The two appointed members of the Board are Betty Burchett of Montgomery County, Tennessee and David Lenoir of Shelby County, Tennessee. Each appointed member serves a four-year term as follows:

Betty Burchett – July 1, 2017 through June 30, 2021 (second consecutive term)

David Lenoir – July 17, 2019 through June 30, 2023

- 4. Are there any vacancies on the board? If so, please indicate how long the position has been vacant and explain steps that have been taken to fill any vacancies.**

There are currently no vacancies on the Board.

5. How many times did the board meet in the last two fiscal years? How many members were present at each meeting? Please note meetings where the board did not have a quorum.

The Board met eight (8) times in the last two fiscal years. The meeting dates are listed below along with the number of members present at each meeting. A quorum for the Board consists of four members and all meetings consisted of a quorum.

FY 2018-2019	
<u>Meeting Date</u>	<u>Members Present</u>
8/27/2018	6
10/30/2018	6
1/25/2019	6
4/22/2019	7

FY 2019-2020	
<u>Meeting Date</u>	<u>Members Present</u>
8/13/2019	5
10/22/2019	7
1/6/2020	7
4/22/2020	7

Financial Information

6. What were the board’s revenues and expenditures for each of the last two fiscal years? Does the board carry a fund balance? If yes, please provide additional relevant information regarding the fund balance.

	July 2017 – June 2018	July 2018 – June 2019	July 2019 – June 2020
Revenues	\$1,320,845.50	\$1,236,672.50	\$1,405,087.00
Expenditures	\$1,278,333.95	\$1,109,486.45	\$1,050,728.16

Each year, we carryforward any unspent funds from the current year and the remaining funds from prior years. The amount we carried forward related to SBOE in FY 2020 was \$127,000. The purpose of these carryforward funds is documented in the Public Acts of 2019 Chapter 405, Section 36, Item 1, which states it is for data processing, systems development, data processing equipment purchases and leases, and telecommunications system purchases and leases.

7. What per diem or travel reimbursements do board members receive? How much was paid to board members during each of the last two fiscal years?

Pursuant to Tenn. Code Ann. § 67-1-303, members of the board who are not state officials are permitted stipend of \$50 per day for each day or part of a day in attendance at a meeting and reimbursed necessary travel and per diem expenses as prescribed in the comprehensive travel regulations by the Commissioner of Finance and Administration for employees of the state of Tennessee.

FY 2018-2019:

Total Per Diem \$300.00
Total Travel Expense \$ -0-

FY 2019-2020:

Total Per Diem \$400.00
Total Travel Expense \$ -0-

- 8. Is the board subject to Sunshine law requirements (Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the board have for informing the public of meetings and making minutes available to the public?**

The State Board of Equalization is a “governing body” as defined in Tenn. Code Ann. § 8-44-102(b)(1) and, therefore, is subject to Sunshine law requirements for public notice of meetings, prompt and full recording of minutes, and public access to minutes. Meeting notices, including the meeting agenda, are published to the Board’s website on the calendar page. To ensure adequate notice to the public, notices are posted to the website upon release, typically anywhere from sixty days to two weeks prior to the meeting date. Pursuant to Tenn. Code Ann. § 4-3-5105(1), minutes of all meetings of the Board shall be open for public inspection during regular office hours. The procedure for requesting inspection and/or copies of minutes is set forth in the Public Records Policy of the Tennessee Comptroller of the Treasury which applies to the Board Requests should be made to the Public Records Request Coordinator in accordance with the policy. Both the policy and instructions for submitting a request may be found on the Comptroller’s website.

- 9. Does the board allow for public comment at meetings? Is prior notice required for public comment to be heard? If public comment is not allowed, how does the board obtain feedback from the public and those they regulate?**

The Board allows for public comment at meetings and prior notice is not required for the public to comment on any item before the Board. If any person or entity advises they wish to be heard before the Board, their request will be noted for the Board members’ attention.

- 10. Does the board have policies to address potential conflict of interest by board members, employees, or other state employees who work with the board?**

Actions of the Board are taken in the context of competing interests who are quite diligent in assuring that their viewpoints are represented. If evidence provided to the Board in an appeal indicates a Board member has a financial interest in the outcome, the law requires, and the parties and other Board members would expect, the conflicted member to recuse. The same standard applies to members of the assessment appeals commission who are also asked to complete a conflict of interest disclosure form. In addition, Board staff is expected to subscribe to the Conflict of Interest Policy adopted by the Comptroller of the Treasury and attorneys appointed or employed by or on behalf of the Board are governed by ethical standards adopted by the Tennessee Supreme Court (Rules of Professional Conduct; Code of Judicial Conduct).

11. What were the board's major accomplishments during the last two fiscal years?

The Board launched a new and improved online filing system. Initially launched for value appeals and exemption applications and appeals, we have expanded the system to include all filings accepted by the Board. This new system works with existing property information to allow users to search for their property by name or parcel number. It also allows users to begin a filing, pause their work, and continue later.

Operating in tandem with the Board's filing system is a new public portal where appellants, governmental entities, and the public at large can view the status of appeals and applications for exemption processed by the Board. Many related documents, decisions, and relevant information can be found directly through our public portal promoting greater levels of transparency.

The State Board of Equalization also approved five new assessment manuals pursuant to Tenn. Code Ann. § 67-5-602 which were developed to assist and advise assessors in the proper recording and assessment of various properties. The manuals are also accessible to the public to provide further insight and guidance to common practice areas such as applications for Greenbelt classification, property tax exemptions, and appeals to a local county board of equalization.

12. How many complaints and appeals pertaining to valuation, classification, and assessment of property were received during each of the last two fiscal years? What were the major areas of concern involved in most of the complaints and appeals? What is the board doing to address areas of concern generating complaints? What is the average length of time to resolve appeals?

The State Board of Equalization received 6,355 appeals in fiscal year 2017-2018, 5,370 appeals in fiscal year 2018-2019, and 5,663 appeals in fiscal year 2019-2020. The assessor's value exceeding fair market value is the primary reason indicated for appeal to the Board. Approximately 62% of properties appealed in fiscal year 2017-2018, 67% of properties appealed in fiscal year 2018-2019, and 80% of properties appealed in 2019-2020 are sub-classified as commercial properties. Most of commercial property appeals identify the income approach to value as the basis for the appeal. The average time to resolve an appeal before the Board, including first and potential second level appeals, is 416 days. The Board continues its educational initiatives of providing training to local county boards of equalization where they may resolve these appeals at the county level. Additional manuals and guides on valuing commercial properties are under development by the Division of Property Assessments, to be approved by the State Board of Equalization.

13. How many complaints and appeals pertaining to exemptions of property from taxation were received in each of the last two fiscal years? What are the major areas of concern involved in most of the complaints and appeals? What is the board doing to address areas of concern regarding complaints? What is the average length of time to resolve appeals?

The Board received thirty-seven (37) appeals of exemption determinations in fiscal year 2017-2018, thirty-two (32) in fiscal year 2018-2019, and twenty-six (26) in fiscal year 2019-2020. Based on a statistical average over a three-year calendar period less than 3% of determinations on applications for exemption are appealed.

Appeals of initial determinations entered for a property tax exemption application typically involve a denial of exemption, the effective date of an approval, whether an exemption should or should not be revoked, or the date the exemption begins. Most appeals are related to the statutory and constitutional limitations requiring use, ownership, and application for exemption. We provide educational resources on exemptions including manuals and explanations of Tennessee's exemption laws on our application webpage.

On average it is 354 days between the filing of an exemption appeal and the closure of that appeal, but only 62 days between the filing of an exemption application and the issuance of a determination.

14. What reports does the board prepare concerning its activities, operations, and accomplishments? Who receives copies of these reports? Please provide a link to any such reports issued in the last two fiscal years.

The Board conducts an audit committee meeting on an annual basis to review its activities, operations, and accomplishments. The members of the Board audit committee include Tre Hargett, Secretary of State; David Gerregano, Commissioner of Revenue; and Betty Burchett. A copy of the audit committee charter as well as the meeting minutes and materials presented at the last two meetings of the audit committee are attached.

15. Please describe any items related to the board that require legislative attention and your proposed legislative changes.

The 111th Tennessee General Assembly recently considered SB2453/HB2348 regarding application of appraisal ratios, also called equalization ratios, to pending real property tax appeals. The issue is one of complicated appraisal theory and property tax policy specific to Tennessee. The decision of whether to apply the ratio is within the General Assembly's purview and the Board's only proposed changes would be to ensure a uniform and consistent application for all Tennesseans. The Board is otherwise in the process of review and has no immediate items at this time.

16. Should the board be continued? To what extent and in what ways would the absence of the board affect the public health, safety, or welfare of the citizens of Tennessee?

Yes, the Tennessee State Board of Equalization should be continued. The Board provides a cost-effective form of relief for taxpayers wishing to appeal their property tax assessments. The absence of the Board would leave many taxpayers with an appeal in chancery court as their only form of relief. Equalization is a process "designed to ensure that all properties in a jurisdiction have been assessed fairly." Defining Tennessee Property Assessments: A Glossary of Property Assessment Terms, pg. 39 (Tennessee Comptroller of the Treasury, 2018). The State Board of Equalization is

charged with ensuring all properties across the state of Tennessee are equalized. The absence of the State Board of Equalization could lead to instability in property tax assessments statewide as well as potentially obscure the certified tax rate process which provides transparency in the setting of tax rates.

17. Please identify the appropriate agency representative or representatives possessing substantial knowledge and understanding of the responses provided to the sunset review questions.

Mr. E. Robin Pope, JD
Executive Secretary
Tennessee State Board of Equalization

18. Please identify the appropriate agency representative or representatives who will respond to the questions at the scheduled sunset hearing.

Mr. E. Robin Pope, JD
Executive Secretary
Tennessee State Board of Equalization

19. Please provide the office address, telephone number, and email address of the agency representative or representatives who will respond to the questions at the scheduled sunset hearing.

425 Fifth Avenue South
Nashville, TN 37215
615.747.5292
Robin.pope@cot.tn.gov